

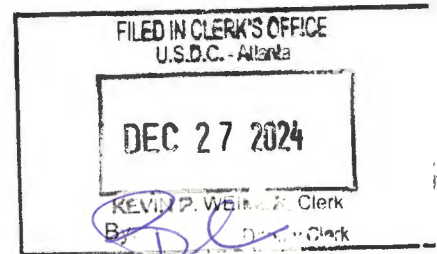
**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**JAMES BUSSEY and
BRENDA SANDOVAL REY,
Plaintiffs,**

**CIVIL ACTION NO.
1:24-CV-4968-VMC**

vs.

**FAIRWAY INDEPENDENT
MORTGAGE CORPORATION/
CHRIS SHUMATE, MCCALLA RAYMER LEIBERT
PIERCE, LLC/ BRIANA TOOKES,
Defendants.**



**MOTION FOR STATUS REPORT AND TO ADDRESS
DEFENDANTS' FAIRWAY INDEPENDENT MORTGAGE
CORPORATION, CHRIS SHUMATE, MCCALLA RAYMER
LEIBERT PIERCE, LLC/ BRIANA TOOKES FAILURE TO
RESPOND**

COMES NOW, the Plaintiff's **James Bussey and Brenda Sandoval Rey**, respectfully moves this Court for a status report and to address the failure of Defendants **Fairway Independent Mortgage Corporation, Chris Shumate, McCalla Raymer Leibert Pierce, LLC/ Briana Tookes** to respond to the Complaint, motions, or other filings in this case. This motion includes a request for the Court to prioritize the

motion filed on **October 30, 2024**, asserting Plaintiff's **right to rescind** under **federal law**. Plaintiff seeks judicial intervention to ensure the orderly and timely progression of this matter.

I. BACKGROUND

1. Plaintiffs filed this lawsuit on **October 30, 2024**, for the Defendants' violating their rights to rescind under the **Truth in Lending Act (TILA)**, **15 U.S.C. § 1635(f)**, and **Regulation Z** as well as other **federal and Georgia laws**.
2. On **October 30, 2024**, Plaintiffs filed a motion asserting the right to rescind a mortgage transaction under **15 U.S.C. §1635(f)** based on Defendants' failure to disclose material terms and fraudulent conduct during the transaction process.
3. Defendants **Fairway Independent Mortgage Corporation, Chris Shumate, McCalla Raymer Leibert Pierce, LLC/ Briana Tookes** were properly served with the Complaint and subsequent motions, as evidenced by the Proofs of Service filed with this Court.
4. To date, Defendants **Fairway Independent Mortgage Corporation, Chris Shumate, McCalla Raymer Leibert Pierce, LLC/ Briana Tookes** have failed to respond to the **October 30, 2024**, Complaint or any subsequent motions filed in this matter by Plaintiffs.

5. Defendants' failure to respond is impeding the process of this case and potentially prejudicing Plaintiff's ability to obtain timely relief, including enforcement of Plaintiff's right to rescind the mortgage transaction.

II. ARGUMENT

6. Under **Federal Rules of Civil Procedure 12(a)(1)**, Defendants are required to respond to the Complaint and motions within **21 days** of being served.

7. Defendants' continued failure to respond constitutes a procedural default under **FRCP Rule 55(a)** and warrants judicial intervention to prevent further delays.

8. Plaintiff's motion right to rescind, filed on **October 30, 2024**, raises substantive legal issues under **TILA**, including violations of **15 U.S.C. § 1635(f)** and **12 C.F.R. § 226.23**, which require immediate consideration to protect Plaintiff's statutory rights.

9. Plaintiffs respectfully requests that this Court:

- a. Issue a status report regarding the progression of this case;
 - b. Direct Defendants to show cause for their failure to respond to the **October 30, 2024**, motion and other filings;
 - c. Impose appropriate sanctions or remedies, including granting leave for Plaintiff to seek default judgment, if Defendants fail to comply.
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III. Prayer for Relief

WHEREFORE, Plaintiff respectfully request that the Court:

1. Issue a status report clarifying the current posture of this case and the pending motions;
2. Require Defendants to show cause for their failure to respond to Plaintiff's filings, including the **October 30, 2024**, motion asserting the right to rescind;
3. Grant Plaintiffs leave to pursue default judgment against Defendants if they fail to comply with the Court's orders;
4. Prioritize adjudication of Plaintiff's right to rescind under **TILA**, including injunctive relief as necessary to protect Plaintiff's statutory rights; and
5. Grant such other relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this **27th** day of **December 2024**, a true and correct copy, of the foregoing **Motion** been sent by via electronic e-mail service to: william.tate@mccalla.com and **Fed Ex** mail to the following addresses: **Fairway Independent Mortgage Corporation, 2 Sun Ct. NW Suite 400, Peachtree Corners, Georgia 30092** and **MCCALLA RAYMER LEIBERT PIERCE LLC/ Briana Tookes, 1544 Old Alabama Road, Roswell, Georgia 30076. Attn: William O.**

**Tate, Esq., Georgia Bar No.: 311044, McCalla Raymer Leibert
Pierce, Esq., and Briana Tookes, Esq.**

**Fairway Independent Mortgage Corporation (Registered Agent)
2 Sun Ct. NW Suite 400
Peachtree Corners, Georgia 30092**

McCalla Raymer Leibert Pierce LLC/ Briana Tookes

**Attn: Williams O. Tate, Esq., McCalla Raymer Leibert Pierce, Esq.,
and Briana Tookes, Esq.**

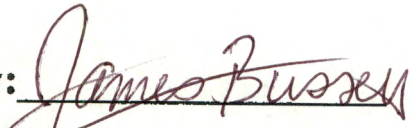
1544 Old Alabama Road

Roswell, Georgia 30076.

Dated: December 27, 2024

Respectfully Submitted,

By:



James Bussey Pro se

455 Liberty Trace

Roswell, Georgia 30076

404-993-3925

JamesBussey72@yahoo.com

Pro se Plaintiff
